
HOUSE BILL No. 1745

DIGEST OF INTRODUCED BILL

Citations Affected: IC 2-5-18-8; IC 4-22-2.

Synopsis: Legislative oversight of administrative rules. Provides for review of all rules by the administrative rules oversight committee. Provides that the administrative rules oversight committee may void rules under certain circumstances.

Effective: July 1, 2003.

Scholer

January 21, 2003, read first time and referred to Committee on Appointments and Claims.

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Introduced

First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

HOUSE BILL No. 1745

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 2-5-18-8 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2003]: Sec. 8. (a) The committee shall receive
3 and may, at its discretion, review a complaint filed by a person
4 regarding a rule or practice of an agency.
5 (b) The committee may review ~~an agency rule~~, an agency practice
6 or a failure of an agency to adopt a rule.
7 (c) The committee **shall review all rules adopted under IC 4-22-2**
8 **and IC 13-14-9 except for emergency rules adopted under**
9 **IC 4-22-2-37.1 and** may recommend that a rule be modified, repealed,
10 or adopted.
11 (d) **The committee may, under IC 4-22-2-47 and IC 4-22-2-48,**
12 **void rules.**
13 (e) When appropriate, the committee shall prepare and arrange for
14 the introduction of a bill to clarify the intent of the general assembly
15 when the general assembly enacted a law or to correct the
16 misapplication of a law by an agency.
17 SECTION 2. IC 4-22-2-47 IS ADDED TO THE INDIANA CODE

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1 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
2 1, 2003]: **Sec. 47. (a) For purposes of this section, "committee"**
3 **refers to the administrative rules oversight committee established**
4 **by IC 2-5-18-4.**

5 **(b) Following the adoption of rules, except for emergency rules**
6 **adopted under section 37.1 of this chapter, this chapter, and**
7 **IC 13-14-9, all rules shall be submitted to the committee for review.**

8 **(c) If the committee objects to all or part of a rule because the**
9 **committee considers it to be unreasonable, arbitrary, capricious,**
10 **or beyond the authority delegated to the adopting agency, the**
11 **committee may enter an objection stating the issues it finds with**
12 **the rule. The objection must contain a concise statement of the**
13 **reasons for the objection.**

14 **(d) The committee shall transmit a copy of the objection to the**
15 **agency adopting the rule. The committee shall also maintain a**
16 **permanent register of all committee objections and submit them**
17 **for publication in the Indiana Register.**

18 **(e) The objections shall be printed in the next issue of the**
19 **Register.**

20 **(f) Within fourteen (14) days after the committee files an**
21 **objection to a rule, the adopting agency shall respond in writing to**
22 **the committee. After receipt of the response, the committee may**
23 **withdraw or modify its objection.**

24 **SECTION 3. IC 4-22-2-48 IS ADDED TO THE INDIANA CODE**
25 **AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY**
26 **1, 2003]: Sec. 48. (a) For purposes of this section, "committee"**
27 **refers to the administrative rules oversight committee established**
28 **by IC 2-5-18-4.**

29 **(b) The committee may find that all or part of a rule should**
30 **become void under subsection (e) if:**

31 **(1) the rule is initially considered by the committee within**
32 **ninety (90) days after the date the final rule is printed in the**
33 **Indiana Register; or**

34 **(2) the rule was adopted between January 1 and adjournment**
35 **of a regular session of the general assembly, and the**
36 **committee considers the rule before July 1 of the year in**
37 **which the rule was adopted.**

38 **(c) A rule or part of a rule may be declared eligible to become**
39 **void under subsection (e) if the committee finds:**

40 **(1) an absence of statutory authority;**

41 **(2) an emergency relating to public health, safety, or welfare**
42 **that would be created by the rule;**

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(3) a failure to comply with express legislative intent or to substantially meet the procedural requirements of this chapter or IC 13-14-9;

(4) a conflict with state law; or

(5) arbitrariness and capriciousness in the rule.

(d) The committee may find a rule void at:

(1) the meeting at which the rule is initially considered by the committee; or

(2) the first meeting of the committee held after the meeting at which the rule was initially considered.

(e) Within three (3) business days after the committee finds that a rule should become void, the committee shall provide written notice of the finding to the adopting agency. Within fourteen (14) business days after receipt of the notice, the adopting agency may file a petition with the committee for review. If the adopting agency does not file a petition for review, the rule is void on the fifteenth day after the notice from the committee.

(f) An agency may amend or repeal a rule or create a related rule if, after consideration of rules by the committee, the agency and committee agree that the rule amendment, repeal, or creation is necessary to address any of the considerations under this section. A rule amended, repealed, or created under this subsection is not subject to the other requirements of this chapter or IC 13-14-9 relating to the adoption of rules and may be resubmitted for publication in the Indiana Register as amended, repealed, or created and reconsidered by the committee at a subsequent meeting at which public comment on the agreed rule change must be allowed.

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